

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

L.C. Brown, Jr., )  
vs. )  
Plaintiff, )  
vs. )  
James Jones, *SCDC employee correctional official,* )  
Defendant. )  
\_\_\_\_\_  
C/A No.: 4:14-01758-TLW

## ORDER

Pro se Plaintiff L.C. Brown filed this action on May 2, 2014, alleging violation of his constitutional rights pursuant to 42 U.S.C. § 1983. Doc. #1. Defendant filed a motion to dismiss or in the alternative for summary judgment on August 20, 2014. Doc. #18. Plaintiff filed a document captioned “PLAINTIFF’S RESPONSE to Roseboro Order,” which this Court construes as a motion for default, on August 21, 2014. Doc. #23. This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed on October 3, 2014, by Magistrate Judge Bruce Thomas E. Rogers, III, Doc. #30, to whom this case was previously assigned. In the Report, the Magistrate Judge recommends that the Court deny both Plaintiff’s motion for default and Defendant’s motion for summary judgment. Plaintiff filed objections to the Report on October 9, 2014. Doc. #33. The Defendant did not file objections.

The Court has reviewed the Report and the objections. In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections.... The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of

those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, de novo, the Report and the objections. After careful review of the Report and objections thereto, the Plaintiff's objections, Doc. #33, are **OVERRULED**, and the Court hereby **ACCEPTS** the Report. Accordingly, the Plaintiff's motion for default, Doc. #23, and the Defendant's motion to dismiss or in the alternative for summary judgment, Doc. #18, are **DENIED**.<sup>1</sup> This case is remanded to the Magistrate Judge for continued proceedings.

**IT IS SO ORDERED.**

s/Terry L. Wooten  
Chief United States District Judge

November 13, 2014  
Columbia, South Carolina

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<sup>1</sup> The Court notes that since the filing of the Report, the Plaintiff's step 2 grievance was apparently resolved. Doc. #38.